

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**SARAH MONTOYA o/b/o  
L.M. a minor child,**

**Plaintiff,**

**vs.**

**Case No. 1:21-cv-00648 LF/JFR**

**RIO RANCHO PUBLIC SCHOOLS  
BOARD OF EDUCATION and  
GEORGE ARCHULETA in his  
individual capacity,**

**Defendants.**

**RIO RANCHO PUBLIC SCHOOLS BOARD OF EDUCATION'S  
ANSWER TO PLAINTIFF'S COMPLAINT**

COME NOW Defendants Rio Rancho Public Schools Board of Education ("RRPS Defendants"), by and through counsel, Jerry A. Walz and Alisha L. Walz, Walz and Associates, P.C., and hereby answer Plaintiff's Complaint as follows:

**JURISDICTION AND VENUE**

1. Upon information and belief RRPS Defendants admit paragraph 1.
2. Paragraph 2 sets forth a legal conclusion to which an answer is generally not required. To the extent that an answer is required, RRPS Defendants are without sufficient information or belief to admit or deny and therefore deny same.

**PARTIES**

3. RRPS Defendants are without sufficient information or belief to admit or deny the allegations of paragraph 3 and therefore deny same.
4. RRPS Defendants are without sufficient information or belief to admit or deny the allegations of paragraph 4 and therefore deny same.

5. RRPS Defendants admit paragraph 5.

6. RRPS Defendants are without sufficient information or belief to admit or deny the allegations of paragraph 6 and therefore deny same.

### **STATEMENT OF FACTS**

7. RRPS Defendants admit that V. Sue Cleveland High School is located at 4800 Cleveland Heights Rd. NE, Rio Rancho, NM 87144. RRPS Defendants are without sufficient information or belief to admit or deny the remaining allegations of paragraph 7 and therefore deny same.

8. RRPS Defendants deny paragraph 8.

9. RRPS Defendants deny paragraph 9.

10. RRPS Defendants are without sufficient information or belief to admit or deny paragraph 10 and therefore deny same.

11. RRPS Defendants deny paragraph 11.

12. RRPS Defendants are without sufficient information or belief to admit or deny paragraph 12 and therefore deny same.

13. RRPS Defendants deny paragraph 13.

14. RRPS Defendants deny paragraph 14.

15. RRPS Defendants are without sufficient information or belief to admit or deny paragraph 15 and therefore deny same.

16. RRPS Defendants are without sufficient information or belief to admit or deny paragraph 16 and therefore deny same.

17. Paragraph 17 sets forth a legal conclusion to which an answer is generally not required. To the extent that an answer is required, RRPS Defendants are without sufficient information or belief to admit or deny and therefore deny same.

18. RRPS Defendants deny paragraph 18.

19. RRPS Defendants are without sufficient information or belief to admit or deny paragraph 19 and therefore deny same.

**COUNT I:**  
**Violation of 42 U.S.C. sec. 1983, Illegal Search and Seizure**  
**under the Fourth Amendment**  
**Against Defendant Archuleta in his Individual Capacity**

20. RRPS Defendants incorporate their previous answers as if set out fully herein.

21. Paragraph 21 of the complaint sets forth a legal conclusion to which an answer is generally not required. To the extent that an answer is required, RRPS Defendants are without sufficient information or belief to admit or deny and therefore deny same.

22. Paragraph 22 of the complaint sets forth a legal conclusion to which an answer is generally not required. To the extent that an answer is required, RRPS Defendants are without sufficient information or belief to admit or deny and therefore deny same.

23. Paragraph 23 of the complaint sets forth a legal conclusion to which an answer is generally not required. To the extent that an answer is required, RRPS Defendants are without sufficient information or belief to admit or deny and therefore deny same.

24. Paragraph 24 of the complaint sets forth a legal conclusion to which an answer is generally not required. To the extent that an answer is required, RRPS Defendants are without sufficient information or belief to admit or deny and therefore deny same.

25. RRPS Defendants deny paragraph 25.

26. Paragraph 26 of the complaint sets forth a legal conclusion to which an answer is generally not required. To the extent that an answer is required, RRPS Defendants are without sufficient information or belief to admit or deny and therefore deny same.

27. Paragraph 27 of the complaint sets forth a legal conclusion to which an answer is generally not required. To the extent that an answer is required, RRPS Defendants are without sufficient information or belief to admit or deny and therefore deny same.

28. RRPS Defendants deny paragraph 28.

29. RRPS Defendants deny paragraph 29.

**COUNT II:**

**Violation of N.M. Tort Claims Act NMSA 1978 § 41-4-12  
Against George Archuleta and Rio Rancho Public Schools Board of Education**

30. RRPS Defendants incorporate their previous answers as if set out fully herein.

31. RRPS Defendants are without sufficient information or belief to admit or deny the allegations of paragraph 31 and therefore deny same.

32. RRPS Defendants are without sufficient information or belief to admit or deny the allegations of paragraph 32 as paraphrased and therefore deny same.

33. Paragraph 33 of the complaint sets forth a legal conclusion to which an answer is generally not required. To the extent that an answer is required, RRPS Defendants are without sufficient information or belief to admit or deny and therefore deny same.

34. Paragraph 34 of the complaint sets forth a legal conclusion to which an answer is generally not required. To the extent that an answer is required, RRPS Defendants are without sufficient information or belief to admit or deny and therefore deny same.

35. Paragraph 35 of the complaint sets forth a legal conclusion to which an answer is generally not required. To the extent that an answer is required, RRPS Defendants are without sufficient information or belief to admit or deny and therefore deny same.

36. RRPS Defendants deny paragraph 36.

**COUNT III:**  
**Violation of N.M. Tort Claims Act § 41-4-12**  
**Against Rio Rancho Public Schools Board of Education**

37. RRPS Defendants incorporate their previous answers as if set out fully herein.

38. RRPS Defendants admit Mr. Archuleta was employed by the school district as a security guard. RRPS Defendants are without sufficient information or belief to admit or deny the remaining allegations of paragraph 38 as paraphrased and therefore deny same.

39. RRPS Defendants deny paragraph 39.

40. Paragraph 40 of the complaint sets forth a legal conclusion to which an answer is generally not required. To the extent that an answer is required, RRPS Defendants are without sufficient information or belief to admit or deny and therefore deny same.

41. RRPS Defendants deny paragraph 41.

42. Paragraph 42 of the complaint sets forth a legal conclusion to which an answer is generally not required. To the extent that an answer is required, RRPS Defendants are without sufficient information or belief to admit or deny and therefore deny same.

43. RRPS Defendants deny paragraph 43.

**COUNT IV:**  
**Violation of N.M. Tort Claims Act § 41-4-6**  
**Against George Archuleta and Rio Rancho Public Schools Board of Education**

44. RRPS Defendants incorporate their previous answers as if set out fully herein.

45. RRPS Defendants admit paragraph 45.

46. Paragraph 46 of the complaint sets forth a legal conclusion to which an answer is generally not required. To the extent that an answer is required, RRPS Defendants are without sufficient information or belief to admit or deny and therefore deny same.

47. Paragraph 47 of the complaint sets forth a legal conclusion to which an answer is generally not required. To the extent that an answer is required, RRPS Defendants are without sufficient information or belief to admit or deny and therefore deny same.

48. RRPS Defendants deny paragraph 48.

49. RRPS Defendants deny paragraph 49.

50. RRPS Defendants deny paragraph 50.

51. RRPS Defendants deny there was a failure to supervise Defendant Archuleta or take action against him. The remaining allegations of paragraph 51 set forth legal conclusions to which an answer is generally not required. To the extent an answer is required, RRPS Defendants are without sufficient information or belief to admit or deny and therefore deny same.

52. RRPS Defendants deny paragraph 52.

#### **JURY DEMAND**

53. RRPS Defendants admit that Plaintiff demands a jury trial on all issues so triable.

#### **REQUEST FOR RELIEF**

1. RRPS Defendants deny paragraph 1.

2. RRPS Defendants deny paragraph 2.

3. RRPS Defendants deny paragraph 3.

4. RRPS Defendants deny paragraph 4.

5. RRPS Defendants deny paragraph 5.

Further, any paragraph or allegation not specifically addressed in Plaintiff's Complaint is denied.

### **AFFIRMATIVE DEFENSES**

COME NOW Defendants Rio Rancho Public Schools and Board of Education hereby assert the following affirmative defenses:

#### **FIRST AFFIRMATIVE DEFENSE**

Any damages sustained by Plaintiff were directly caused by the actions or inactions of third parties for whom RRPS Defendants are not responsible.

#### **SECOND AFFIRMATIVE DEFENSE**

As to Plaintiff's negligence claims, Defendants Rio Rancho Public Schools and Board of Education state that if they are or were negligent, which is specifically denied, the negligence of all parties whether named or unnamed in this lawsuit should be compared and contrasted and negligence apportioned accordingly.

#### **THIRD AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred in whole or in part pursuant to the New Mexico Tort Claims Act.

#### **FOURTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to state any claim against RRPS Defendants for which relief may be granted.

#### **FIFTH AFFIRMATIVE DEFENSE**

Plaintiffs are precluded from the recovery of punitive damages and pre-judgment interest on their state tort claims pursuant to the Tort Claims Act.

WHEREFORE, the RRPS Defendants have answered Plaintiff's Complaint in full, have asserted their affirmative defenses, and respectfully request dismissal of Plaintiffs' claims against the RRPS Defendants with prejudice, an award of attorney fees and costs, and such other relief as the Court deems just and as allowed by law.

Respectfully submitted:

**WALZ AND ASSOCIATES, P.C.**

/s/ Jerry A. Walz  
JERRY A. WALZ, ESQ.  
ALISHA L. WALZ, ESQ.  
*Attorneys for RRPS Defendants*  
133 Eubank Blvd. NE  
Albuquerque, NM 87123  
Phone: (505) 275-1800  
[jerryawalz@walzandassociates.com](mailto:jerryawalz@walzandassociates.com)  
[awalz@walzandassociates.com](mailto:awalz@walzandassociates.com)

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on the 21st day of July, 2021, I filed the foregoing electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means, as more fully reflected in the Notice of Electronic Filing.

/s/ Jerry A. Walz  
JERRY A. WALZ